

Ex. 4

**Letter of Jeremy R. Kasha to
David Gelfand,
dated July 12, 2019
[first of two letters of same date]**



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July 12, 2019

By Electronic Mail

David I. Gelfand
Cleary Gottlieb Steen & Hamilton LLP
2112 Pennsylvania Avenue, NW
Washington, DC 20037

Re: *State of New York et al. v. Deutsche Telekom et al.*, follow-up to July 3, 2019
Meet-and-Confer Concerning Plaintiffs' Data Requests to Defendants

David,

I write to follow up on my recent discussion with your colleague, Steven Kaiser, about our data refresh request, that Defendants have asked us to narrow. In an effort to accommodate your request that we be more specific as to our needs, this letter addresses only Plaintiffs' Document Requests to T-Mobile Nos. 28-45, and to Sprint Nos. 27-44, and only to the extent that they call for data. We will separately make another tailored proposal concerning a refresh for documents, or possibly for data sought by requests not identified in this letter. In any event, we make these proposals in a good faith effort to satisfy your request that we be both more specific and more narrow.

Specifically, Defendants have asserted that they have already produced to Plaintiffs data responsive to certain of our Requests for Production, in the course of responding to the USDOJ's Second Request, USDOJ's CIDs, or one of New York's investigatory subpoenas. In responding to Plaintiffs' Requests Nos. 28-45 (for T-Mobile) and Nos. 27-44 (for Sprint), Defendants have cited their responses to Second Request Specifications 2, 9(a), 9(b), 10, 17, 19, 20, 21, 23, 24, 26, 28, 36(d), 37(a), 37(c), 37(f), 37(h), 40, 42, and 53, as well as responses to USDOJ's CID 29800 and RFI 6 of New York's January 2, 2019 subpoena, as responsive to Plaintiffs' Requests Nos. 28-45 (for T-Mobile) and Nos. 27-44 (for Sprint). However, we understand that

Defendants' data productions to USDOJ in response to the Second Request are only up-to-date through June, 2018. This is not sufficient for Plaintiffs, since it does not even reach the end of last year.

Our proposal is that Defendants will refresh their data productions cited above through the end of December 31, 2018. To be clear, we are not asking you to refresh the entirety of your responses to each of those requests, but rather, only the portions of those requests that include data that are responsive to our requests. As an ancillary point, if Defendants agree to this proposal, there will have to also be an agreement that Defendants will not be able to use similar data that post-dates the productions to Plaintiffs.

We believe that this a reasonable compromise, although it does not include everything Plaintiffs would otherwise want (e.g., data current through the present). Plaintiffs reserve the right to specifically request information beyond December 31, 2018, if necessary, to address facts or arguments disclosed prior to trial.

We believe that agreement on this proposal would be an important step in resolving many of the issues that separate our positions. We hope you agree, and also that you appreciate that Plaintiffs are making substantial concessions. Hopefully, we can continue negotiating compliance taking both sides' concerns into account.

Please confirm your agreement, or let us know if you would like to discuss.

Sincerely,



Jeremy R. Kasha
Assistant Attorney General
Antitrust Bureau

On Behalf of All Plaintiff States

cc (by email): Counsel for Defendants T-Mobile, Sprint, Softbank, and Deutsche Telekom.